CONFIDENTIAL

Expeditious Completion of Departmental Enquiries.

GOVERNMENT OF MAHARASHTRA

General Administration Department,
Circular No. CDR-1190/377/CR/13/XI-A(*i*)
Mantralaya, Bombay 400 032, dated the 15th May 1990.

CIRCULAR

Government has been considering various steps that could be adopted for expeditious disposal of disciplinary cases within the framework of the existing rules. The delay in the disposal of disciplinary cases is neither in the interest of the Government, nor in that of the delinquent Government servant. Undue delay in the disposal of the disciplinary cases also affects the morale of the Government servants concerned. In a recent review of issues pertaining to pending Departmental Enquiry cases with all the Divisional Special Officers, Departmental Enquiries, it was noticed that there are quite a large number of Departmental Enquires pending with the various Divisional Special Officers, Departmental Enquiries, for various reasons, such as want of original papers, the delinquent employees are not giving full particulars of and not indicating the relevance of the additional documents required for their defence, the place where the documents are available, etc. If such lapses are avoided by those, who are conducting the Departmental Enquiries or dealing with the Departmental Enquiries, and the delinquents could be asked to furnish detailed information, indicating relevance of the document required, the place where it is available, etc. it would help ensure timely disposal of these cases. Such lapses and causes of delay and various points raised by Divisional Special Officers, Departmental Enquiries and the clarifications against each of them are indicated below :—

Points raised	Clarification
(1)(*i*) Copies of the listed documents are not supplied to the delinquent.	(*i*) As far as possible, copies of the listed documents should be sent to the delinquent along with the charge-sheet and statement of imputations of misconduct (*vide* para 2(4) of the G.C.G.A.D. No. CDR-1185/2235/42/XI dated the 24th December, 1985). These instructions should be followed scrupulously.
(*ii*) The original records need to be sent to the Enquiry Officer along with the order of appointment of the Enquiry Officer and if they are not so sent, the Enquiry Officer should return the order of appointment to disciplinary authority.	(*ii*) The original records should be sent by the Disciplinary Authority to the Enquiry Officer along with the order of appointment of Enquiry Officer andif they are not so sent, the Enquiry Officer should return the order of appointment to the Disciplinary Authority.
	In the case of Departmental Enquiry cases pending at present; if the original papers are not sent to the Enquiry Officer within six months after being requested to do so, the Enquiry Officer should return the charge-sheet, statement of imputations of misconduct etc. to the Disciplinary Authority.
	Copies of the original documents are required to be kept before sending the original papers to the police or the court, *vide* para 4 of the Government Circular, General Administration Department, No. CDR-1082/1960/7/XI, dated the 21st July 1982, However, where the copies of the original documents are not kept and they are lying in the court, delinquent should be allowed to have inspection, thereof in the court with the permission of the court.
(2) Inspection of additional documents-points to be taken into consideration by the Enquiry Officer.	While calling for additional documents for preparing his defence, the delinquent officer is supposed to state clearly their relevance to his case as also the office offices where those could be available. Hence/before requisitioning the additional documents required by the delinquent, the Enquiry Officer should obtain detailed information from the delinquent in the proforma enclosed. The Enquiry Officers should consult the Presenting Officer (or in the absence of a Presenting Officer the disciplinary authority) before accepting the request of the delinquent for requisitioning the documents. The Enquiry Officer should write a letter *direct* to the authority, in whose custody

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Points raised	Clarification
	or possession the documents are kept. The letter for requisitioning such documents may read like this " I have been appointed as Inquiring Authority to conduct inquiry in the case above cited, *vide* order No.————————dated the——— issued by————————
	(2) I am enclosing a copy of requisition in the prescribed proforma received from the delinquent officer calling for discovery or production of documents for the purpose of preparing his defence. It is certified that I have scrutinised the requisition and satisfied that the documents mentioned therein are relevant to the case.
	(3) It is requested that arrangement may please be made expeditiously to produce the requisitioned documents in original, or if the originals are not readily available, their true copies, duly attested before the undersigned on———————— (date and time) at———— (place)".
	The Enquiry Officers while rejecting any request of delinquent for requisitioning the original documents should record reasons therefor in the 'Raznama' and obtain the dated signature of the delinquent.
(3) Government pleaders not to give any assurance to the court regarding the completion of the Departmental Enquires within a specific date without prior consultation of the Enquiry Officer or the disciplinary authorities.	It is noticed that Government Pleaders give assurance in the Courts on behalf of the Enquiry Officer and the Disciplinary Authorities regarding completion of Departmental Enquiries within specific date without consulting the Enquiry Officer or the disciplinary authorities. Such an assurance by the Government Pleaders puts the E. Os. and the Disciplinary Authorities in an very embarrassing position. It is, therefore, clarified that the Government Pleaders should not give any assurance to the Court regarding completion of the Departmental Enquiry within specific date without prior consultation with the Enquiry Officer or the disciplinary authority concerned. The Law and Judiciary Department should bring these instructions to the notice of all the Government Pleaders. If the Court prescribes specific time limit on its own for completion of the Departmental Enquiries, the concerned Administrative Department should move the court to review the orders, giving reasons for such review.
(4) The time-limit for completion of Departmental Enquiries and submitting the reports by the Enquiry Officers to the disciplinary authorities.	In order to avoid undue hardship to a Government Servant under suspension instructions have been issued in Government Circular, General Administration Department, No. CDR-1387/1776/47/XI, dated the 25th February 1988, to give high priority to such Departmental Enquiry at all stages and complete it within six months. It is noticed that these instruction are not scrupulosuly followed. It is emphasised here that where the persons involved in the Departmental Enquiries are placed under suspension, there is all the more need for speedy action. Suspension does constitute much hardship to the Government Servant concerned. In order to avoid undue hardship to the Government servants concerned, it is essential that Departmental Enquiries against those under suspension are delt with on priority basis with a view to ensuring that the period of suspension is reduced to the barest minimum. The Enquiry Officers should, therefore, give high priority to the pending Depart-

Points raised	Clarification
	mental Enquiries against Government Servants under suspension at all stages and complete them within a period of six months. If for any good and sufficient reasons, the cases of suspended employees are not completed within a period of six months, the Enquiry Officers should approach the appropriate authorities prescribed in the Government Circular, General Administration Department, No. CDR-1379/489/72/XI, dated the 19th April 1979, for extension of time limit for completion of Departmental Enquiries. In cases other than the cases of suspended employees, the Departmental Enquiry should be ordinarily completed within one year, failing which the Enquiry Officer should approach the General Administration Department through the Administrative Department for extension of time limit for completion of the Departmental Enquiry forwarding the proposal in the prescribed proforma accompanying the Government Circular referred to above.
(5) Need to cite witnesses to prove the authenticity or genuineness of the documents before the Enquiry Officer.	The rules of evidence are not strictlyy a pplicable to the Departmental Enquiries. In case any documentary evidence is disputed, the Enquiry Officer can call the person concerned as a witness to prove the genuineness of the document. It is, therefore, necessary for the Disciplinary Authority to cite witnesses to prove the authenticity or genuineness of the documents before the Enquiry Officers, and such witnesses should be able to give relevant evidence, e.g. identifying the signature of an officer on a document custody of the documents with an office from which they were produced, etc. Where no witnesses are cited by the Disciplinary Authorities, the Enquiry Officer has discretionery powers under rule 8(17) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 to call for documents or any witnesses in the interest of the Departmental Enquiry.
(6) Necessity of brief to be submitted by the Presenting Officer.	Presenting Officer is supposed to furnish the Enquiry Officer with his (Presenting Officer's) written brief on the case as presented by him so as to enable the Enquiry Officer to finalise the enquiry expeditiously. However, the Enquiry Officer need not in every case hold up the proceedings or his report for want of a written brief of the Presenting Officer. The Enquiry Officer has to protect the public interest and even if the Presenting Officer failed to submit a brief, it is for the Enquiry Officer to give detailed reasons for his findings in respect of each article of charge and finalise the enquiry expeditiously.

By order and in the name of the Governor of Maharashtra,

Enclosure : Proforma.

S. P. KAMATKAR,
Deputy Secretary to Government.

To

The Secretary to the Governor,
The Secretary to the Chief Minister,
All Divisional Special Officer, Departmental Enquiries,
All District Enquiry Officers, Departmental Enquiries,
The Law and Judiciary Department,
All other Departments of the Mantralaya,
All Heads of Departments and Heads of Offices under the several Departments of the Mantralaya.

Proforma to be submitted by the delinquents for requisitioning additional documents

Name and Designation of the Delinquent

Serial No.	Details of the additional documents required for inspection, to be given serially	Relevance of such additional documents, to his case, whose inspection he desires	Office/Department in which the documents are available	Remarks of the Enquiry Officer on the delinquent's request for requisitioning the additional documents
(1)	(2)	(3)	(4)	(5)

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